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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,633	09/29/2003	John W. Worthington	07844-600001 / P553	4700
21876	7590	03/13/2006	EXAMINER	
FISH & RICHARDSON P.C. P.O. Box 1022 MINNEAPOLIS, MN 55440-1022			WOODS, ERIC V	
			ART UNIT	PAPER NUMBER
			2672	

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/674,633

Applicant(s)

WORTHINGTON, JOHN W.

Examiner

Eric Woods

Art Unit

2672

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 26 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
ULKA CHAUHAN  
SUPERVISORY PATENT EXAMINER

Continuation of 3. NOTE: These claims raise new issues and require further search. As noted in the interview, these amendments may be sufficient to overcome the prior art of record, but still require further detailed consideration and search, since the amendments dramatically changed claim scope. As such, they cannot be entered. .

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's reply addresses the same issues discussed in the interview on January 19, 2006. The examiner has carefully considered the arguments presented therein, and they have essentially been repeated herein. Milliron and Jennings both distinctly disclose a system that warps images. Applicant has not redefined the term tool, and the office is required (In re Morris) to give claims their broadest reasonable interpretation, where that would be consistent with the ability of the user to set tool vectors and their magnitudes and directions and to allow the user to point at a region and set the region of influence and the magnitude and direction of the shift. This is clearly consistent with the definition of 'tool', as is the 'paintbrush tool' in Jennings, as acknowledged by applicant's representative on page 2 of Arguments. However, Milliron teaches that the tool has a perimeter (e.g. for one thing the selected region, for a second thing the selected radius around the tool constitutes a tool perimeter (under one interpretation). Clearly, the directional vectors shown in Milliron constitute 'tool vectors', and clearly both Milliron and Jennings utilize tool meshes, as explained in the final rejection. These, when applied, modify the distortion vectors for the image, where the user and system set them. Therefore, the other claims, which merely depend from the independent claims, are further rejected properly in the final rejection. The limitation in claim 9 that the tool vectors change with time as the warping tool is applied is at least fairly suggested by Jennings and implied by Milliron, as the Final Rejection makes clear. Since the definition of 'tool' is very broad, clearly the movement of a point (e.g. the use of the tool of Jennings to select a first point and a second point ) would constitute the movement of a warping tool, particularly in the sense that the tool of Jennings would be clicked at the source point, and then the user would move it to the destination point and click there, which clearly would constitute motion of the tool. The IDS does not have to be considered at this time because the application is already under Final Rejection, but has been. NOTE THAT THESE ARGUMENTS ARE DIRECTED TO THE CLAIMS THAT WERE FINALLY REJECTED, NOT THOSE THAT WERE NOT ENTERED AS ABOVE.